

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ROGER BUEHL,</b>	:	
	<b>Plaintiff</b>	:
	:	<b>No. 10-CV-02288</b>
<b>v.</b>	:	
	:	<b>Judge Munley</b>
<b>JON FISHER, <i>et al.</i>,</b>	:	
	<b>Defendants</b>	<b>Electronically Filed Document</b>

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**DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT**

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Pursuant to Fed.R.Civ.P. 12(b)(6), defendants, by their counsel, hereby move this Court to dismiss plaintiff's amended complaint. In support of this motion, defendants assert the following.

1. Plaintiff's complaint fails to state a claim against defendants upon which relief may be granted.
2. Plaintiff has failed to exhaust some or all of his claims.
3. A supporting brief will be submitted in accordance with Local Rule 7.5.

WHEREFORE, defendants respectfully request that the amended complaint be dismissed.

**Respectfully submitted,**

**LINDA L. KELLY**  
**Attorney General**

**By:** *s/ Michael L. Harvey*

**MICHAEL L. HARVEY**  
**Senior Deputy Attorney General**  
**Attorney ID #30098**

**Office of Attorney General**  
**15<sup>th</sup> Floor, Strawberry Square**  
**Harrisburg, PA 17120**  
**Phone: (717) 705-6896 - Direct**  
**Fax: (717) 772-4526**  
**[mharvey@attorneygeneral.gov](mailto:mharvey@attorneygeneral.gov)**

**Gregory R. Neuhauser**  
**Chief Deputy Attorney General**  
**Chief, Civil Litigation Section**

**Date: November 21, 2011**

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**CERTIFICATE OF CONCURRENCE/NONCONCURRENCE**

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I, Michael L. Harvey, Senior Deputy Attorney General, hereby certify that I sought concurrence in Defendants' Motion to Dismiss Amended Complaint, and that plaintiff's counsel was not available. An amended certificate will be filed once plaintiff's counsel is contacted.

*s/ Michael L. Harvey*  
**MICHAEL L. HARVEY**  
Senior Deputy Attorney General

**Date: November 21, 2011**

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**CERTIFICATE OF SERVICE**

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I, Michael L. Harvey, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on November 21, 2011, I caused to be served a true and correct copy of the foregoing document titled Defendants' Motion to Dismiss Amended Complaint to the following:

**VIA ECF**

**Jennifer J. Tobin**  
**Pennsylvania Institutional Law Project**  
**718 Arch Street**  
**Suite 304 South**  
**Philadelphia, PA 19106**  
[jtobin@pailp.org](mailto:jtobin@pailp.org)  
*Counsel for Plaintiff*

*s/ Michael L. Harvey*  
\_\_\_\_\_  
**MICHAEL L. HARVEY**  
Senior Deputy Attorney General